



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/204,013	12/01/1998	WAYNE D. BALDWIN	8530.318USC1	4928

23552 7590 11/29/2001

MERCHANT & GOULD PC  
P.O. BOX 2903  
MINNEAPOLIS, MN 55402-0903

EXAMINER

PELHAM, JOSEPH MOORE

ART UNIT

PAPER NUMBER

3742

DATE MAILED: 11/29/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/204,013	Applicant(s) BALDWIN ET AL.
Examiner	Art Unit Joseph M Pelham	3742

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### **Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 30 August 2001.

2a)  This action is **FINAL**.                    2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 20-23, 25, 26 and 29-36 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 20-23, 25, 26, and 29-36 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)  The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)  All b)  Some \* c)  None of:

1.  Certified copies of the priority documents have been received.
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a)  The translation of the foreign language provisional application has been received.

15)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1)  Notice of References Cited (PTO-892) 4)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948) 5)  Notice of Informal Patent Application (PTO-152)  
3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6)  Other: \_\_\_\_\_

Art Unit: 3742

1. The Examiner acknowledges Applicant's submission of the amendment filed 8/30/01. Claims 20-23, 25, 26 and 29-36 are now pending.
2. Claims 20-23, 25, 26 and 29-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5454471 to Norvell in view of U.S. Patent 5750962 to Hyatt and either U.S. Patent 4816646 to Solomon et al or 4806736 to Schirico.

Norvell discloses, at Figures 1-5, column 4, lines 6-9, and column 7, line 21, through column 8, line 7, a method for transporting cooked pizzas substantially as claimed, in which boxed pizzas are transported; also including an interior sub-chamber for a heat retention member and hook and loop fasteners. Norvell does not disclose a heating coil in thermal contact with the surface of a sealed heat retention member, a thermostat which opens at 95° - 105°C, a dielectric oil heat retention member, a rigid base for the heat retention member, or applying AC power to the heat retention member while it is in the subchamber, prior to inserting a pizza.

Referring to Figures 1-8, and column 3, lines 21-60, Hyatt discloses a heating coil 24, 26 in thermal contact with a sealed heat retention member 18, a thermostat 30, and AC or DC power for the heating coil. It would have been obvious to one of ordinary skill in the art to adapt the coil, thermostat, and power means of Hyatt to the device of Norvell to allow more convenient heating of the enclosure.

Figures and column 3 line 68, through column 4, line 3, of Schirico, or Figure 4 and column 3, lines 1-12, of Solomon et al, discloses applying AC power to a heater member within a pizza carrier, either explicitly or implicitly prior to inserting a pizza. It would have been obvious to one of ordinary skill in the art to heat the heat retention member of Norvell in view of Hyatt within a pizza carrier, after the manner of either Solomon et al or Schirico, so that the carrier would be immediately ready for use upon heating the heat retention member.

A rigid base for the heat retention member, or a thermostat which opens at 95° - 105°C, cannot be regarded to patentably distinguish the claimed invention over the prior art of record, since both are well known in the art or determined by routine engineering considerations. Hyatt discloses food warmers as an intended application of the heating device, and such use would necessitate a rigid form to allow handling of the device, and a thermostat which opens at 95° - 105°C would be dictated by the conventionally desired temperature of the particular food placed in the warmer.

#### *Response to Arguments*

3. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Art Unit: 3742

***Conclusion***

4. Any inquiry concerning this communication should be directed to Joseph Pelham at telephone number (703) 308-1709, or fax (703) 308-7764.

JP

November 12, 2001



**JOSEPH PELHAM**  
**PRIMARY EXAMINER**

Attachment for PTO-948 (Rev. 03/01, or earlier)  
6/18/01

**The below text replaces the pre-printed text under the heading, "Information on How to Effect Drawing Changes," on the back of the PTO-948 (Rev. 03/01, or earlier) form.**

**INFORMATION ON HOW TO EFFECT DRAWING CHANGES**

**1. Correction of Informalities -- 37 CFR 1.85**

New corrected drawings must be filed with the changes incorporated therein. Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and centered within the top margin. If corrected drawings are required in a Notice of Allowability (PTO-37), the new drawings **MUST** be filed within the **THREE MONTH** shortened statutory period set for reply in the Notice of Allowability. Extensions of time may **NOT** be obtained under the provisions of 37 CFR 1.136(a) or (b) for filing the corrected drawings after the mailing of a Notice of Allowability. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

**2. Corrections other than Informalities Noted by Draftsperson on form PTO-948.**

All changes to the drawings, other than informalities noted by the Draftsperson, **MUST** be made in the same manner as above except that, normally, a highlighted (preferably red ink) sketch of the changes to be incorporated into the new drawings **MUST** be approved by the examiner before the application will be allowed. No changes will be permitted to be made other than correction of informalities, unless the examiner has approved the proposed changes.

**Timing of Corrections**

Applicant is required to submit the drawing corrections within the time period set in the attached Office communication. See 37 CFR 1.85(a).

Failure to take corrective action within the set period will result in **ABANDONMENT** of the application.